

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 17, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 17, 2015 at 1:34 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Dennis, Vice Chair; John Dailey; Bob Dool; David Foster; Matt Goolsby (out @ 4:40 p.m.); Joe Johnson (Out @4:25 p.m.); John McKay Jr. (Out @4:25 p.m.); Debra Miller Stevens; Bill Ramsey; Lowell Richardson; John Todd and Chuck Warren (Out @5:00 p.m.). Bill Ellison and Carol Neugent were absent. Staff members present were: Dale Miller, Director; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the November 19, 2015 Planning Commission Minutes.

MOTION: To approve the November 19, 2015 minutes.

JOHNSON moved, **WARREN** seconded the motion, and it carried (11-0-1). **DOOL** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00025: One-Step Final Plat – RWANA ESTATES ADDITION**, located south of 45th Street North on the west side of Webb Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON2015-00022) from Single-Family Residential (SF-5) to Two-Family Residential (TF-3). The applicant proposes single-family residential units.

This revised plat has enlarged the lots, reducing the total number of lots from 37 to 29. The street right-of-way has been increased from a narrow street right-of-way to the standard residential street right-of-way.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and sewer (laterals). In-lieu-of-assessment fees are due on sewer (mains) and water (transmission).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes complete access control along Webb Road except for one street opening.

- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. The applicant shall guarantee the paving of the proposed interior street. The paving of Plumthicket needs to extend to connect with the existing Plumthicket pavement in Sand Plum Addition.
- G City Fire Department advises the turnaround must meet the minimum 38-foot paved radius requirement for cul-de-sacs over 150 feet or the current standards at time of construction.
- H. The owner's name will need to be shown under the plat's text.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. County Surveying advises the existing road right-of-way needs shown with the recording data. The existing road right-of-way along the north line should also show the recording data.
- L. The Applicant has platted a 20-foot building setback which represents an adjustment of the Zoning Code standard of 25 feet for the Two-Family Residential District (TF-3). The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- M. GIS requests a new name for 44th St. The street types need added to the road names: "Champions Cir" and "Plumthicket St".
- N. County Surveying advises the legal description needs corrected to match the deeds.
- O. All parties having interest in the property shall sign the final plat including their spouses.
- P. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.

- Q. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- R. The year “2016” needs to replace “2015” within the MAPC signature block.
- S. City Environmental Health Division advises that any wells installed on the properties for irrigation purposes will have to be properly permitted and inspected.
- T. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- U. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- X. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Any removal or relocation of existing equipment of utility companies will be at the applicant’s expense.

CC. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MCKAY asked staff to explain Items 2-1 and 2-5.

STRAHL explained that both cases contain residential cul-de-sacs. He said staff has been requesting that the pavement radius be enlarged from 35 to 38 feet to accommodate fire trucks. He said standard language has been “a radius of 38 feet or the current standard at time of construction.” He said it was announced that the current City Policy is 35 feet for standard residential streets which is how it is stated in the current Subdivision Regulations. He said the change will not affect the right-of-way, just the pavement radius which is not shown on the plat.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RICHARDSON moved, **TODD** seconded the motion, and it carried (12-0).

2-2. SUB2015-00042: One-Step Final Plat – SUNSTONE AT 135TH ADDITION, located on the East side of 135th Street West, south of Kellogg.

NOTE: This unplatted site is located in the County adjoining Wichita’s boundary. The site was approved for a zone change (PUD2015-00004) from Single-Family Residential (SF-20) to Planned Unit Development (PUD-47).

STAFF COMMENTS:

- A. As this site is adjacent to Wichita’s municipal boundaries, the applicant shall submit a request for annexation. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- C. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- D. City of Wichita Public Works and Utilities Department requests a petition for extension of water (transmission and distribution) and extension of sewer (mains and laterals).
- E. The platting text shall include language that “No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements.”

- F. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- G. City Stormwater Management has approved the applicant's drainage plan.
- H. Traffic Engineering has approved the access controls. The plat proposes two openings along 135th Street West in accordance with the PUD site plan.
- I. The MAPC signature block needs to reference "Dale Miller – Secretary".
- J. The year "2016" needs to replace "2015" within the City Council and Register of Deeds signature blocks.
- K. The platlor's text shall reference "A lot, block, reserve and street".
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- M. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- N. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Sunstone at 135th Planned Unit Development PUD2015-00004.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Westar Energy has requested additional utility easements to be platted on this property. Heide Bryan, Subdivision Representative, will be the contact for this plat. She can be reached at 316-261-6554. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- V. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RICHARDSON moved, **TODD** seconded the motion, and it carried (12-0).

2-3. SUB2015-00043: One-Step Final Plat – KALB ADDITION, located north of 13th Street North on the east side of 167th Street West. (COUNTY 3-MILE RING)

NOTE: This unplatted site is located in the County within three miles of the City of Wichita. It is in an area designated as "Wichita Growth Area" by the Community Investments Plan 2015-2035. The applicant proposes a conditional use (CON2015-00036) for agricultural sales and services.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer and water.
- C. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, "Richard Ranzau, Fourth District"

- D. The platlor's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- E. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- F. The plat denotes two openings along 167th Street West. County Engineering requests the access controls be labelled as "Per access management standards". Applicant is advised coordination with existing pipeline owner may be necessary for a second entrance.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The Reserve shall be labelled as Reserve A.
- I. County Stormwater has received a preliminary drainage plan. County Stormwater is requesting the required detention reserve be shown on the plat.
- J. The plat needs a lot and block number denoted.
- K. In the platlor's text, City Engineer needs to be changed to County Engineer.
- L. County Surveying advises the need for a property corner set or found at the southwest corner of the plat.
- M. The applicant is advised that due to encroachment of a portion of the proposed K-96/Northwest Bypass on this plat, the property is subject to meeting the requirements of the Corridor Preservation Plan Overlay District (CP-O) prior to the issuance of any building permits. KDOT has advised that the final design for the future right-of-way will require an expansion of the Reserve.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- O. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. The year "2016" needs to replace "2015" within the City Council and Register of Deeds signature blocks.
- Q. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Westar Energy advises of a transmission line located inside the platted area along the north property line. The plat has been forwarded to the Transmission Engineering Department for any comments they may have for the applicant. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

TIM AUSTIN, KAW VALLEY ENGINEERING, 200 NORTH EMPORIA, AGENT FOR THE APPLICANT said they are in agreement with staff recommendations.

MARGARET MANNS, 1818 NORTH 167TH STREET WEST, GODDARD said they live just north of the site. She said the area has always had an issue with water drainage and they are wondering what is going to happen if the applicant builds this big building with all the asphalt. She asked where that water is going to drain. She said their property has already been designated as one to be taken over by the highway. She said they are concerned what this is going to do to their property values and if they will be treated fairly when KDOT takes their home.

STRAHL said the County has received the preliminary drainage plan but the final plan is subject to review. He suggested that the applicant or agent discuss drainage.

AUSTIN said the plan is consistent with drainage requirements. He said they have submitted a drainage study to County Engineering for review. He mentioned that there will be on site detention and they will address drainage issues as they develop the site.

FOSTER asked Mr. Austin to describe the on-site drainage.

AUSTIN commented that the northwest corner is a low area that pools water. He said they got that area released as a “non-jurisdictional wetland” from the Army Corp. of Engineers. He said when the water pools and goes over the top it drains to the northeast corner. He said that will be the site of the detention. He mentioned a swale that comes back to the Southwest corner.

WARREN asked what happens if KDOT wants a bigger easement.

AUSTIN commented that County Engineering had given them those dimensions which will take an additional 70 feet. He said the final plat will reflect that.

RICHARDSON clarified that any drainage from buildings or pavement will be redirected to the detention pond. He clarified that the water will go to the back of the property.

VICE CHAIR DENNIS commented that property values are not something the Commission considers as part of zoning and platting process, so they Commission can’t answer that.

RICHARDSON explained that the Commission will be hearing a Conditional Use request on the property later on in the meeting. He explained that this case was just for platting, not the uses on the property.

MANNS asked if anyone had any indication as to when the highway is going to be built. She said their business is currently “on hold” because they are not allowed to build a garage.

KENNETH MANNS, 1818 NORTH 167TH STREET WEST, GODDARD said they are also concerned about the truck traffic and noise this is going to create.

RICHARDSON said he saw a quote from the Secretary of Transportation that said the only way the Northwest Bypass is going to be built is if it is a turnpike or toll road for whatever that’s worth. He said it looks to him like the bypass is a long way off.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **DOOL** seconded the motion, and it carried (12-0).

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- 2-4. **SUB2015-00045: One-Step Final Plat – HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North. (COUNTY)

VICE CHAIR DENNIS announced that the item was deferred.

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- 2-5. **SUB2015-00046: One-Step Final Plat – HARRY’S LANDING ADDITION**, located east of Rock on the north side of Harry.

NOTE: This is an unplatted site located within the City. The property was approved for a zone change to Planned Unit Development (PUD2008-00008), Moussavi Office Park (PUD #29). The plat proposes lots for single-family residential units with the exception of office uses for Lots 1 and 17.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests a petition for extension of sewer (laterals) on all lots and extension of water (distribution) for Lots 1-17. In-lieu-of-assessment fees for water (distribution) is needed for Lots 18-24 and Reserve “A”. Water meters at 8724 and 8728 East Harry need to be terminated and removed by the City of Wichita.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant’s drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along Harry and complete access control along the Harry street frontage.
- E. City Fire Department advises the turnaround must meet the minimum 38-foot paved radius requirement for cul-de-sacs over 150 feet or the current standards at time of construction. City Public Works requests a three-foot utility easement around the cul-de-sac.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. The Applicant shall guarantee the paving of the proposed street.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners’ association prior to recording the plat or shall submit a restrictive

covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The property is subject to PUD2008-00008 Moussavi Office Park Development. A PUD revision is needed to coincide with the plat in regards to parcel boundaries and setbacks.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- M. GIS has approved the plat's street names.
- N. The owner's company name will need to be shown under the plat's text.
- O. County Surveying advises the final plat shall show the distance and direction to the monuments used to locate the land described in the certificate of survey.
- P. All parties having interest in the property shall sign the final plat including their spouses.
- Q. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- R. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- V. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- AA. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RICHARDSON moved, **TODD** seconded the motion, and it carried (12-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2014-00038 (Deferred from 11-19-15): City request to vacate a portion of Platted Lakeway Street right-of-way,** generally located south of 37th Street North and west of Hoover Road.

OWNER/AGENT: Sienna Lakes #2 LLC, C/O Jay Russell, Ruggles & Bohm, P.A., c/o Chris Bohm (agent)

LEGAL DESCRIPTION: Generally described as vacating a south portion of the platted Lakeway Street public right-of-way, located between Lot 75, Block 1, & Lot 44, Block 2, all in the Siena Lakes Addition, and ending at the abutting portion of Lakeway Street located in the Ridge Port North 4th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 37th Street North and west of Hoover Road (WCC #V)

REASON FOR REQUEST: Reduce traffic through the south abutting properties

CURRENT ZONING: The site is public street right-of-way. All abutting and adjacent properties are zoned SF-5 Single-Family Residential or TF-3 Two-Family Residential

VICE CHAIR DENNIS announced that the item was deferred.

- 3-2. **VAC2015-00054: City request to vacate platted access control on property,** generally located north of Central Avenue, on the east side of Webb Road, between Chamberlin and Von Thaden Streets (660 N Webb Rd).

OWNER/APPLICANT/ AGENT: R & B Webb Road, c/o Steve Blasdel & Triple J of Wichita LLC (owners/applicants) Kaw Valley Engineering, Inc., c/o Scott Servis (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted complete access control located on the north 80 feet and the south 80 feet of the west property line of Lot 1, Travel Air City 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Central Avenue, on the east side of Webb Road, between Chamberlin and Von Thaden Streets (660 N Webb Road) WCC #II

REASON FOR REQUEST: To allow two drives onto Webb Road Associated with commercial lot split LSP2015-00036

CURRENT ZONING: The site and the adjacent north properties are zoned GC General Commercial. The abutting east and adjacent west properties are zoned SF-5 Single-Family Residential. The adjacent south property is zoned LI Limited Industrial.

The applicants propose to vacate the platted complete access control located on the north 80 feet and the south 80 feet of the west property line of Lot 1, Travel Air City 2nd Addition, to allow a total of two drives onto Webb Road. Currently the subject lot is allowed one drive in the middle 100-feet of its Webb Road frontage located between the north 80 feet and the south 80 feet of its Webb Road frontage.

LSP2015-00036, is a commercial lot split that divides the subject lot into two parcels, with two different owners. The applicants' site plan shows the north parcel's building being located on its south end, where a common drive would have been located, per platted access control. The applicants propose to dedicate complete access control in the middle 100 feet of its Webb Road frontage to allow each parcel its drive.

Webb Road has four-lanes at this location. The USD-259's Minneha Elementary School is located west of the site across Webb Road. The school site, Minneha Elementary School Addition, is permitted four drives onto Webb Road, none of which are located across from the subject site's Webb frontage. There is a signaled school crossing going from the subject site to Minneha Elementary School, which is a consideration in the proposed relocated drives. The closest drive north of the site is located approximately 95 feet away, separated from the subject area by Chamberlin Street. The closest drive south of the site is located approximately 190 feet away, separated from the subject area by Von Thaden Street.

The current Access Management Regulations standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, Art 10-104, Modification of Design Criteria, Art VII – Design Standards – Part 2 Specific Standards – 7-204, L, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There does not appear to be public utilities in the area of the vacation. There are utility poles located in the area of the vacation. The installation of the drives may require the relocation of utility poles at the applicant's expense. Westar has equipment in an easement in the area of the vacation, but it should not be affected by the request; condition #2 will cover that equipment. Becky Thompson, is the Construction Services Representative for this area is working with the applicant on this project. She can be reached at 316/261-6320. There are at least three curb cuts from previous development on the subject site that will need to be reconstructed to a full curb, at the applicants' expense. The Travel Air City 2nd Addition was recorded with the Register of Deeds May 20, 2015.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted complete access control.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted complete access control and that the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Per the approval of the Traffic Engineer, vacate the platted access control on Lot 1, Travel Air City 2nd Addition to allow one drive for each of the two parcels created by commercial lot split LSP2015-00036. Provide a dedication of access control allowing a total of two drives with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) The applicant must improve the lighting on the signaled school crossing going from the subject site across Webb Road to Minneha Elementary School, at their own expense, as approved by the Traffic Engineer. The lighting must be approved prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing curb cuts from previous development on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted access control on Lot 1, Travel Air City 2nd Addition to allow one drive for each of the two parcels created by commercial lot split LSP2015-00036. Provide a dedication of access control allowing a total of two drives with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.

- (2) The applicant must improve the lighting on the signaled school crossing going from the subject site across Webb Road to Minneha Elementary School, at their own expense, as approved by the Traffic Engineer. The lighting must be approved prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing curb cuts from previous development on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

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- 3-3. VAC2015-00055: City request to vacate a portion of platted access control, on property,** generally located on the southeast side of Greenwich Road and 27th Street North (2746 N. Greenwich Ct.).

OWNER/APPLICANT/ Wichita Destination Developers, Inc. (owner/applicant) KE Miller Engineering,

AGENT: PA, c/o Kirk Miller (agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast side of Greenwich Road and 27th Street North (2746 N. Greenwich Court) WCC #II

REASON FOR REQUEST: Allowing an additional right-in – right-out drive

CURRENT ZONING: The site, abutting south and adjacent west properties are zoned LI Limited Industrial. Abutting south properties are zoned LI and SF-5 Single-Family Residential. Abutting north properties are zoned LI and LC Limited Commercial.

The applicant proposes to vacate a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition. Currently the subject lot is allowed one platted full movement drive onto Greenwich Road, located between Greenwich Court and 27th Street North; the applicant proposes to keep the platted drive. The applicant proposes a right-in – right-out drive located 178.44 feet north of Greenwich Court and 125.42 feet south of the permitted full movement drive. 27th Street North is located approximately 740 feet north of the site. A portion of the K-96-Greenwich Road interchange is located approximately 180 feet south of the proposed drive.

Greenwich Road has four-lanes at this location, with a full curbed landscaped median located directly across from the proposed right-in – right-out drive. The full curbed landscaped median would allow only a right-in – right-out drive and prevents conflict with the traffic entering and exiting the properties located west of the site, across Greenwich Road.

The current Access Management Regulations standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, Art 10-104, Modification of Design Criteria, Art VII – Design Standards – Part 2 Specific Standards – 7-204, L, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. Stormwater inlets and line appear to be in the area of the vacation. There are utility poles and Westar equipment located in the area of the vacation. The installation of the drives may require the relocation of utility poles at the applicant's expense. Westar has equipment in an easement in the area of the vacation, but it should not be affected by the request; condition #2 will cover that equipment. Becky Thompson, is the Construction Services Representative for this area is working with the applicant on this project. She can be reached at 316/261-6320. There is a curb cut in the area of the vacation, that will need to be reconstructed to a full curb, at the applicants; expense. The Wichita Destination Development Addition was recorded with the Register of Deeds October 19, 2013.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted complete access control.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of platted complete access control and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Per the approval of the Traffic Engineer, vacate a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition to allow one right-in – right-out drive onto Greenwich Road. Provide a dedication of access control allowing the drive with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) If the full curbed landscaped median does not extend to the approved additional drive, the applicant will provide a private project plan to extend the full curbed landscaped median to the approved additional drive to ensure that it functions as a right-in – right-out drive. The private project will include a sign stating that the drive is a right-in – right-out drive. The private project must be approved by Public Works prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Stormwater and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing the existing curb cut on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition to allow one right-in – right-out drive onto Greenwich Road. Provide a dedication of access control allowing the drive with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) If the full curbed landscaped median does not extend to the approved additional drive, the applicant will provide a private project plan to extend the full curbed landscaped median to the approved additional drive to ensure that it functions as a right-in – right-out drive. The private project will include a sign stating that the drive is a right-in – right-out drive. The private project must be approved by Public Works prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Stormwater and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing the existing curb cut on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

- 3-4. VAC2015-00056: City request to vacate a platted fire lane easement on property,**
generally located on the northwest side of Kellogg Street and Webb Road (453 S. Webb).
- OWNER/AGENT:** Ruffin Hotel of Wichita LLC (owner) KE Miller Engineering PA, c/o Kirk Miller (agent)
- LEGAL DESCRIPTION:** Generally described as vacating that portion of a platted 20-foot fire lane easement located on Lot 2, F.N.I.C. Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located on the northwest side of Kellogg Street and Webb Road (453 S. Webb Road) WCC II
- REASON FOR REQUEST:** Redevelopment of the site
- CURRENT ZONING:** The site and the abutting north and west properties are zoned LC Limited Commercial. Abutting east properties are zoned LC and GC General Commercial. A portion of the US 54 – I-35 interchange abuts the south side of the site.

The applicant is requesting the vacation of that portion of a platted 20-foot fire lane easement located on Lot 2, F.N.I.C. Addition. Vacation of the subject fire lane easement needs approval by the Fire Department. There are no public utilities located in the subject fire lane easement. Condition #4 will cover Westar. LaDonna Vanderford is the Construction Services Area representative and will be the contact on this request. She can be reached at 316-261-6490. The F.N.I.C. Addition was recorded May 22, 1973.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted fire lane easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described platted fire lane easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) As approved by the Fire Department vacate that portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition.
- (2) As needed provide any needed easements for emergency access. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by the Fire Department vacate that portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition.
- (2) As needed provide any needed easements for emergency access. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.

- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

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- 3-5. VAC2015-00057: City request to vacate a platted utility easement on property,**
generally located north of Central Avenue on the east of Hydraulic Avenue (602 N. Hydraulic).

OWNER/AGENT: Tim McGinty (owner) KE Miller Engineering PA, c/o Kirk Miller (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 188.79-foot long (x) 25-foot wide utility easement running parallel to the south property line of Lot 3, McGinty Addition, Sedgwick County, Kansas.

LOCATION: Generally located on the east side of Hydraulic Avenue and north of Central Avenue (WCC #I)

REASON FOR REQUEST: Building expansion

CURRENT ZONING: The site and the abutting and adjacent, northern and western properties are zoned LI Limited Industrial. Abutting southern properties are zoned GC General Commercial. Railroad right-of-way separate the site from the adjacent eastern B Multi-Family Residential zoned properties.

The applicant proposes to vacate the platted 188.79-foot long (x) 25-foot wide utility easement running parallel to the south property line of Lot 3, McGinty Addition. There is a sewer line and manhole in the subject easement. Westar has equipment in easement in the vacation area but condition #2 will cover that equipment. Becky Thompson, is the Construction Services Representative for this area is working with the applicant on this project. She can be reached at 316-261-6320. The McGinty Addition was recorded with the Register of Deeds August 12, 1983.

NOTE: VAC2015-00011 vacated the 404.72-foot (x) 20-foot platted utility easement running parallel to the east property lines of Lots 1, 2 and 3 (the subject site), McGinty Addition; approved by the City Council June 23, 2015.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, including easement to cover the existing sewer line and manhole, with original signatures, for other existing or relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.

- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, including easement to cover the existing sewer line and manhole, with original signatures, for other existing or relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

- 3-6. VAC2015-00058: City request to vacate a platted wall easement on property,**
generally located one-half mile north of 21st Street North on the east side of Ridge Road,
north of Clear Meadow Circle, on the northwest side of Clear Meadow Court (7118 W
Clear Meadow Court).

OWNER/AGENT: Mark E and Mary S Hutton (owners) Baughman Company, PA, c/o
Russ Ewy (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 240.40-foot long (x) 5-foot
wide wall easement running parallel to the south property line of Lot 3,
Block 1, Mere Ridge Addition, Sedgwick County, Kansas

LOCATION: Generally located on-half mile north of 21st Street North on the east of
side of Ridge Road, north of Clear Meadow Circle, on the northwest side
of Clear Meadow Court (7118 W Clear Meadow Court) WCC VI

REASON FOR REQUEST: Not needed

CURRENT ZONING: The site and all abutting and adjacent properties are zoned SF-5 Single-
Family Residential

The applicant proposes to vacate the platted 240.40-foot long (x) 5-foot wide wall easement running parallel to the south property line of Lot 3, Block 1, Mere Ridge Addition. Per the platlor's text the wall easement is for the construction and maintenance of a private wall and utilities may cross the wall easement. There is no wall located in the platted wall easement. There does not appear to be any public utilities located in the subject easement. Condition #1 will cover Westar. Richard Aitken is the Construction Services Representative for this area and will be the contact on this request. He can be reached at 316-261-6734. The applicant proposes to dedicate a substitute easement to cover those utilities located within the current wall easement. The Mere Ridge Addition was recorded with the Register of Deeds November 29, 1988.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted wall easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described platted wall easement and that the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted wall easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted wall easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

- **3-7. VAC2015-00059: City request to vacate a platted utility easement on property,**
generally located west of Maize Road, on the north side of 29th Street North and the west side of Parkdale Circle.

OWNER/APPLICANT/AGENT: Newmarket Office, LLC, c/o David Hambrick (owner/applicant)
Professional Engineering Consultants, c/o Charles Brown

LEGAL DESCRIPTION: Generally described as vacating the platted 330.02-foot long (x) 20-foot wide utility easement located 40 feet west and running parallel to the west property lines of Parcels A & B, Lot 1, Block 1, New Market Office 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Maize Road on the north side of 29th Street North, on the west side of North Parkdale Circle WCC V

REASON FOR REQUEST: Replace with another utility easement

CURRENT ZONING: The site and the abutting north, east and south properties are zoned GO General Office. Abutting west properties are zoned SF-5 Single-Family Residential.

The applicant is requesting the vacation of the platted 330.02-foot long (x) 20-foot wide utility easement located 40 feet west and running parallel to the west property lines of Parcels A & B, Lot 1, Block 1, New Market Office 2nd Addition. There are no public utilities located in the subject utility easement. Condition #3 will cover Westar. Richard Aitken is the Construction Services Representative for this area and will be the contact on this request. He can be reached at 316-261-6734. However, there are franchise utilities located west of and outside of the subject easement. The applicant proposes to replace the subject easement with a 20-foot utility easement that abuts and runs parallel to the west property lines of the subject sites. There is a parallel 20-foot wide utility easement located in the west abutting Fontana 3rd Addition; a sewer line is located in that easement. The combined easements will provide a total width of 40 feet to cover existing and future utilities. There may be a landscaped berm (cedar trees) located within the proposed replacement utility easement; if it is located on the subject properties dedicate a landscape easement to protect the landscaped berm. The New Market Office 2nd Addition was recorded May 19, 2011.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by vacating the described platted utility easement and that the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a utility easement dedicated by separate instrument with original signatures for utilities. The original dedication must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (2) Provide a landscape easement dedicated by separate instrument with original signatures to protect a landscaped berm (appears to be running parallel to the west side of the subject site) if it is located on the subject properties. The original dedication must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.

- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated platted 20-foot utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a utility easement dedicated by separate instrument with original signatures for utilities. The original dedication must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (2) Provide a landscape easement dedicated by separate instrument with original signatures to protect a landscaped berm (appears to be running parallel to the west side of the subject site) if it is located on the subject properties. The original dedication must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated platted 20-foot utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.

- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

4. **Case No.: CUP2015-00041 (Deferred from 11-19-15)** - Ronald D. Ryan Living Trust (Owner); and Paul Gray (Agent) request a City Community Unit Plan CUP DP-134 amendment to increase residential density on property described as:

Lot 2 EXCEPT beginning at the Northwest corner; thence South 305 feet; thence Southwest 164.44 feet; thence South 135.95 feet; thence East 299.99 feet to the East line; thence North 439.62 feet; thence West 10 feet; thence North 100 feet; thence West 150.51 feet to the point of beginning and EXCEPT part deeded for sidewalk, Timber Grove Lakes Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is undeveloped property within Parcel 2a of DP-134, The Timber Groves Lakes Community Unit Plan (CUP), a 6.65-acre site at the northwest corner of North Maize Road and West Central Avenue. The vacant site currently has a detention water feature on the south and east side of the site, along Maize Road. The applicants wish to build three multi-family buildings, three stories each, with 24 dwelling units per building for a total of 72 dwelling units (10.87 dwelling units per acre) with no architectural restrictions (see the attached site plan). The CUP currently limits Parcel 2a to a total of 15 dwelling units, six dwelling units per building, townhouse units, two-story buildings, and requires architectural compatibility with nearby office and residential buildings using fieldstone. Therefore, the applicants request an amendment to DP-134 Parcel 2a to eliminate the stated restrictions. The application area is zoned GO General Office (GO), which permits 75 dwelling units per acre.

The application area, Parcel 2a, is the only undeveloped parcel within the CUP. Immediately north of the site is a two-story office building on the GO zoned Parcel 2. North and west of the site is the SF-5 Single-family Residential (SF-5) zoned Parcel 3, developed with the Timber Groves Lakes residential development. Parcel 3 has 45 existing residences, a mixture of single-family residences and attached duplexes. The CUP allows Parcel 3 to develop a total of 416 dwelling units, in a mixture of single and

multi-family housing types, at a maximum density of 7 units per acre. Parcel 1, south of the site, is zoned LC Limited Commercial (LC) and developed with retail, restaurant and banking uses. The CUP grants the application area cross lot access to the north to Maize, using the one access point to Maize currently used by the office building to the north and the Timber Grove Lakes residences. The CUP also grants this site cross lot access to Central to the south, across the commercially developed Parcel 1. A bridge across the detention water feature exists between the southwest corner of the application area and Parcel 1, and a drive aisle exists on the west side of the Wal-mart Neighborhood Market, connecting to Central. The CUP requires a landscape buffer between this site and Parcel 3 at a rate of 1 shade tree or equivalent per 30 linear feet. The CUP requires a masonry wall between the application area and Parcel 3, the wall is already constructed. Beyond the boundaries of DP-134, surrounding uses include an SF-5 zoned park to the north and west, an SF-5 zoned church and houses east of the CUP across Maize Road, and LC zoned commercial development south of the CUP across Central.

CASE HISTORY: The site was rezoned to GO with DP-134 in 1983 and was platted as the Timber Grove Lakes Addition in 1984. A 2008 CUP Amendment split the application area, Parcel 2a, from Parcel 2 and permitted multi-family residential development with the above stated restrictions.

ADJACENT ZONING AND LAND USE:

NORTH:	GO, SF-5	Offices, single and two-family residences, park
SOUTH:	LC	Commercial development
EAST:	SF-5	Church, single-family residences
WEST:	SF-5	Single and two-family residences, park

PUBLIC SERVICES: The CUP grants this site cross lot access to Maize and Central. Maize is a four-lane arterial with a 110-foot right of way (ROW) at the access point and a southbound right turn decel lane. This portion of Maize has a traffic count of 21,505 vehicles per day. Central is a five-lane arterial with a 124-foot ROW at the access point; this portion of Central has both east and west bound accel/decel lanes. This portion of Central has a traffic count of 13,449 vehicles per day. Per the City Traffic Engineer, the proposed multi-family development would generate 6.59 vehicle trips per day per unit, for a total of 474 daily trips. The City Traffic Engineer recommends requiring this development to maintain cross lot access to Central to the south, reducing the impact on the Maize access point. Sidewalks are available on both adjacent Maize and Central, the site is on the West Central transit bus route. All typical urban services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC and Comprehensive Plan consider residential development less intense than commercial development. The Comprehensive Plan locational guidelines consider this request “high density” residential development as it exceeds 10 units per acre. The Comprehensive Plan Residential Locational Guidelines recommend that medium and high density residential uses locate within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. The Comprehensive Plan also recommends close proximity to

concentrations of employment, major thoroughfares and utility trunk lines. They should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods. And, they should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

RECOMMENDATION: The applicant's request is to increase the permitted residential density on this vacant CUP parcel, and to eliminate other development restrictions. Planning staff notes that peak hour traffic from this development could be a concern, and recommends that the CUP amendment require a connection to Central through the commercial development drive aisle to the south. Several residential neighbors from Timber Grove Lakes contacted staff opposed to this request. Opposition appears primarily against the three-story building request, visual compatibility, the total number of units and associated traffic, noise, trash and light. Staff feels that the CUP's existing architectural compatibility requirement with fieldstone, along with the existing landscape buffer requirement and screening wall should mitigate the visual concerns. The UZC limits light pole height to 15 feet when within 200 feet of residential zoning, and requires cut-off luminaries to minimize light trespass and glare. The UZC also requires trash receptacle screening. Therefore, staff feels that the potential impacts generated by this request can be mitigated with existing CUP and code requirements along with staff recommended conditions.

Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-134 2a to remove CUP architectural compatibility with fieldstone be **DENIED**. Planning staff further recommends that the request to increase multi-family units to 72, to increase the number of units in a building to 24, to increase the number of building stories to three, and to allow apartment buildings be **APPROVED** subject to the following conditions:

- (1) The CUP shall be amended to require multi-family residential development on Parcel 2a to maintain cross lot access to both Parcel 1 and Parcel 2. The applicant shall construct access improvements from Parcel 2a to Parcel 1 prior to obtaining residential building permits.
- (2) The applicant shall submit a site plan demonstrating access from Parcel 2a to Parcel 1, to be approved by planning staff and the City Traffic Engineer.
- (3) The applicant shall submit building elevations, to be approved by planning staff, demonstrating architectural compatibility per the CUP requirements.
- (4) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The application area, Parcel 2a, is the only un-developed parcel within the CUP. Immediately north of the site is a two-story office building on the GO zoned Parcel 2. North and west of the site is the SF-5 zoned Parcel 3, developed with the Timber Groves Lakes residential development. Parcel 3 has 45 existing residences, a mixture

of single-family residences and attached duplexes. Parcel 1, south of the site, is zoned LC and developed with retail, restaurant and banking uses. Beyond the boundaries of DP-134, surrounding uses include an SF-5 zoned park to the north and west, an SF-5 zoned church and houses east of the CUP across Maize Road, and LC zoned commercial development south of the CUP across Central.

- (2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned GO with DP-134 use restrictions and development standards, and could be developed for a number of uses under those restrictions. However, the site has been vacant as zoned for GO since 1984, and has been vacant with the 15-unit multi-family restrictions since 2008.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment would increase the total number of dwellings permitted on the site, and would increase the permitted number of building floors from two to three. The proposed development could impact adjacent residences with increased traffic, noise, and visual changes. These impacts should be mitigated by the existing screening wall, CUP requirements for a landscape buffer and architectural compatibility, and UZC light and screening compatibility requirements.
- (4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add housing at an urban infill location with existing infrastructure, utilities, nearby park and commercial amenities. Vehicle traffic from the site could negatively impact access to the arterial street network, particularly if only once access point is made available. Denial of this request would presumably be a loss of economic opportunity for the land owner or developer.
- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC and Comprehensive Plan consider residential development less intense than commercial development. The Comprehensive Plan locational guidelines consider this request “high density” residential development as it exceeds 10 units per acre. The Comprehensive Plan Residential Locational Guidelines recommend that medium and high density residential uses locate within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. The Comprehensive Plan also recommends close proximity to concentrations of employment, major thoroughfares and utility trunk lines. They should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods. And, they should be sited where they will not overload or create congestion in existing and planned facilities/utilities.
- (6) Impact of the proposed development on community facilities: The requested CUP amendment could negatively impact access to the arterial street network. The proposed cross lot access requirement to both Maize and Central should mitigate that concern.

JESS MCNEELY, Planning Staff presented the Staff Report. He said DAB V voted to approve the request per staff comments at the December 7, 2015 meeting. He said DAB also requested that the applicant meet with the HOA opposed to the request (Timber Grove Lakes) to work out issues. He said that meeting took place on December 10, 2015. He referred Commissioners to a Handout dated December 5, 2015 addressed to Paul Gray which was the HOA's request going into that meeting. He said he felt there was some common ground as far as concepts on screening, landscaping, and placement of buildings, architectural detail and stone on the buildings to meet the CUP architectural requirements. He said that the main point of issue is the total number of units being requested. He mentioned that the current CUP (dated 2008) restricts the property to 15 units in two-story townhouse type buildings. He said the applicant is asking for 72 total units and to stay within the height limit of 35 feet but asking for three-story buildings. He referred to the Handout and said the HOA is proposing a total of 48 units. He concluded by stating that the applicant and HOA have not come to a resolution on the number of units. He concluded by stating that the applicant and surrounding neighbors were present to speak to the Commission.

RICHARDSON asked if any of the property was covered by the HOA.

MCNEELY replied no.

RICHARDSON asked if the flood requirements discussed at the last hearing had been worked out.

MCNEELY stated nothing has changed since the last meeting. He added that the applicant has not done engineering to determine how much additional capacity and where that will go on the site. He suggested letting the applicant discuss how he is going to achieve the increased detention that will be required as he increases impervious surface on the site

RICHARDSON asked who was responsible for the bridge, and if there was some document requiring joint maintenance. He also asked who was responsible for enforcing screening requirements such as tree replacement, etc. on the northwest part of the property.

MCNEELY replied that he would let the applicant discuss that issue; however, he added that it appeared that the bridge was on the application area. He added that maintenance of the wall, bridge and access to the office property were discussed at the meeting that was held with the HOA. He said as far as screening, if CUP or other standards are not being met, that is an issue for MABCD.

JOHNSON indicated he had an ex parte conversation regarding the application that has not changed his mind. Several other Commissioners revealed ex parte communications including **GOOLSBY**, **MCKAY** and **RAMSEY**.

PAUL GRAY, 1861 NORTH ROCK ROAD, #200, APPLICANT said a lot has taken place since the project was proposed. He said his groups sees this as an opportunity to bring in-fill development on an undeveloped piece of property in West Wichita. He said they feel this proposed use would be a great buffer between the residential and the high density commercial use in the area. He said the highest and best use for this property is multi-family residential. He said the amendment in 2008 for the townhomes was not economically feasible and it did not make the highest and best use of the property. He said the

proposed site plan maximizes the potential of the site. He said as developers, one of the most valuable assets of the property are the seclusion from arterial traffic and the two large water features. He said they wanted to take advantage of the water features and put the parking and drive lane on the opposite side of it.

GRAY mentioned the meeting with the neighbors and along with other issues like size and density of the building he said another concern was residences being out on their third story balconies being disruptive in the evening. He said they took those sentiments to heart and redesigned the property. He said originally the buildings were double stacked with apartments on both sides facing the neighborhood and the water with breezeways between the buildings. He said they redesigned the complex to make it a single-stacked facility with every apartment facing the water. He said the side facing the neighborhood will only have a common entrance into the building that you and five other residences would share. He said there would be an internal staircase and all windows facing the neighborhood were bedroom windows, which most people keep the blinds in their bedrooms drawn at night that would cut down light and noise pollution. He said one of the ancillary benefits of the redesign was that the buildings became narrower which allowed them more room for landscaping, parking and drive lanes between buildings and the existing residential wall. He said they are proposing about an 8-foot buffer between the drive lane and the existing fence where they would put in trees. He said they believe all these improvements make the property more compatible with the neighbors than commercial development that could be up to six stories tall. He said there are no requirements for setbacks so the building could be much closer to the residential properties making the view more restrictive. He said they feel this use benefits everyone. He mentioned opening up the access to Central Avenue which they feel will be beneficial to their residents. He concluded by stating that they were excited about the property and it was a way to develop additional residences in the City.

DENNIS referred to the correspondence dated December 10, 2015 and asked Mr. Gray to respond to item #1 which was that the number of units be limited to a maximum of 48 and building height limited to a maximum of 35'.

GRAY said they are not open to that as an option. He said it was difficult to develop an apartment complex under 100 units. He said economic viability becomes challenging the smaller the complex becomes because static costs like paving, drive lanes, etc. have to be spread over few units.

DENNIS asked Mr. Gray to respond to #2 of the correspondence regarding the easement.

GRAY said the site plan they designed has 8 feet of landscape buffer in it which is close to the 10 feet requested in the letter. He said the building is constrained by a 45 foot easement on buildings site paths and the lake. He said in addition they need to have enough room for parking, room between the parking and the buildings and drive lanes large enough to meet Fire department standards.

DENNIS asked about the landscaping.

GRAY said only a small portion of the requested 15-foot landscaping barrier is feasible. He said traffic needs to be able to get straightened out safely and in line with the bridge. He said he did not think it was feasible to put a 15-foot buffer across that area.

DENNIS asked Mr. Gray to respond #3 regarding building spacing and fieldstone.

GRAY said they will put fieldstone on the buildings; however, he noted that 50% stone masonry was not common in this area because there was a significant cost difference between that and brick. He estimated that they will install masonry on the side of the facility that faces the neighborhood. He said that number was rather large and unachievable for the scope of the project.

DENNIS asked about #4 with regarding to lighting.

GRAY said they will stay within zoning requirements.

DENNIS asked about #5 with regard to costs to maintain the stone wall and lights.

GRAY said if any other development went in without being in a CUP there would not even be a conversation about sharing maintenance of the existing wall. He said the wall has been given a price tag of \$1 million. He said they do not feel it is fair that they be obligated to share 50% of the cost of maintenance just because of a CUP adjustment. He said they believe they will be liable for any damage to the wall from people on their side of it; they would consider that fair. He said if a driver damages the bridge he believes the liability for any repairs would be on the driver, not the property owner. He said they will not arbitrarily sign an agreement for perpetual maintenance of the wall separating the facilities.

DENNIS asked about #6 which was a maintenance agreement for the pond and the parking lot.

GRAY said they have been in discussion with the owners of the office facility and they have agreed to develop a shared maintenance agreement for the parking drive lanes.

RICHARDSON asked who was responsible for the bridge and pond.

GRAY said they own the bridge and will have to maintain and update it as needed. He said they also own the pond. He commented that the owners have to maintain the property such as mowing, etc.

RICHARDSON asked if the wall was on the property.

GRAY said they don't believe the wall is on their property; however, he added they have not done a survey to verify that. He said the neighborhood built that for themselves so maybe one of the neighbors could speak to that issue.

JOHNSON asked Commissioner Richardson if he got his question about detention answered.

RICHARDSON said the only response he got was that detention had not been engineered yet. He asked about enlarging the north/south pond for detention purposes.

GRAY said they have a pond already located on the 6 acre parcel that they can widen banks as needed for additional retention requirements.

FOSTER asked for clarification on the height of 35 feet and asked if that was to the peak of the gables.

GRAY said that would be measured however zoning dictates heights of buildings. He said he didn't know how that was derived and referred to staff.

FOSTER commented that he didn't know if he agreed with Mr. Gray's statement on the percentage of masonry. He said residences located in the Central and Maize area are well above 20% masonry.

MIKE HILL, 909 NORTH MAIZE ROAD, #720 said the Timber Grove Lakes HOA came into being in 1992 under the Kansas Townhouse Act when 22 homeowners purchased the development from a distressed developer. In addition he said there are now single family homes between the twin homes with a totaling 45 homes in all. He referred to the aerial of the area.

HILL mentioned the office building located directly to east of the neighborhood and the intended similarity to the design of their homes. He commented that his home is 70% stone masonry. He said in 2008 an agent representing the owner approached the HOA requesting a change in zoning of DP-134 to allow construction of 15 units called the Ryan townhouses. He referred to a depiction site plan of the units with double car garages. He said they agreed with the owner that the proposed townhomes would probably fit into the community. He noted that no protests were filed at that time because they came to an agreement. He said they always thought something like that would be developed. He said the owner is now asking for a 500% increase from 15 versus 72. He said there are a lot of other issues other than traffic that just goes on and on. He said the proposal is a serious deviation of density and a breach of the prior compromise. He referred to language in the CUP, which he said is a City document, which stated that "...the development should be appropriate to the neighborhood and that safeguards should be provided to insure that the development would minimize the diminution and value of surrounding property and that the proposed development can be adequately served by public features." He asked the Commission to ponder on this for that reason and other reasons that the neighbors will bring before them. He concluded by respectfully requesting asked that the density of 72 plus units on this property be denied.

FOSTER asked with 48 units do they still envision three buildings.

HILL said they have yet to see an actual architectural design on how this proposal would pan out. He said going from 15 units to 72 units, a 500% increase is not acceptable to him personally. He mentioned that the west side of the bridge is a stone wall. He said if you own the bridge, then you own the stone wall separating the two properties. He commented on using the pond for detention and mentioned an incident where it rained heavily up north and water came down the Cowskin Creek, backed up and raised out of the banks. He said water is an issue and that it has come within 10 feet of his home. He said they built a wall around their walkout so they don't get water in it.

WARREN asked if Mr. Hill had any knowledge why the 14 unit project did not happen.

HILL said just hearsay that the manufacturer of the building product the owner was going to use had a fire and the product was no longer available to the builder.

GOOLSBY asked Mr. Hill if the wall was located on HOA property.

HILL said he would have to refer that question to another resident because he didn't know whose property the wall was located on.

GOOLSBY asked Mr. Hill if he thought it was reasonable to ask the applicant to maintain the wall that the HOA built.

HILL said the original property developer built the wall.

ED PLOPPA 606 NORTH MAIZE ROAD, #726 said he and his wife have lived in the area since 1986 and were one of the original homeowners who saw the developer go bankrupt. He said they lost quite a bit of money in equity when that happened. He said he was involved in rescuing the property from foreclosure from Bank IV. He said their unit is located 100 feet away from the western most portion of the property being discussed. He said as far as being a buffer between residential and commercial, a 35 foot tall structure behind his house will definitely do that. He said this community was developed to accommodate empty nesters and retirees, which is the composition of the residents in the HOA. He said whether or not property values will decline is a controversial matter; however, and he believes the Staff Report opens that up for conversation. He mentioned the recommendation on page five that denial of the application would present a loss of economic opportunity for the land owner." He asked why the Staff Report did not take into consideration the potential loss of value for adjacent landowners. He asked why that wasn't considered. He said the report also fails to mention that the property owner had an opportunity to develop the property under the 2008 agreement and failed to do so. He asked why the responsibility for the property owners ultimate loss falls to the owners of Timber Grove Lakes. He said he does not see that as being reasonable. He said the potential loss to surrounding homeowners can't be estimated. He said there are 45 residents and their homes average \$200,000 in value. He mentioned the possibility of a 5% decline by which would equal approximately \$450,000. He said a significant portion of a retirees net worth is the equity in their residences. He said that cannot replenish that value. He asked the Commission to think about the significant loss of value to the surrounding neighbors and the fact that the applicant had an opportunity to develop the property in 2008 and didn't when they decide to approve or disapprove the requested.

JOHNSON asked if Mr. Ploppa knew anything about the berming and trees behind the Walmart.

PLOPPA said Walmart worked with the HOA on that and added that they have been a good neighbor.

GOOLSBY asked Mr. Ploppa if his property depreciated in value when the Walmart was built.

PLOPPA said he didn't know if the Walmart caused the property to appreciate or depreciate. He mentioned that there was a significant decrease in property values at the time the developer went broke and they had to refinance their home. He mentioned that this is a very stable community with little turnover in the units. He said the area is considered a hidden gem in Wichita and it would be a travesty for this development to occur.

RICHARDSON asked Mr. Ploppa if he had any feelings about the necessity of the connection to the south to Central.

PLOPPA said he believes the connection to the south is going to be problematic. He said the connection will be directly across the entrance/exit of the Dillons at Maize and Central. He said Central to the west is coming over a bridge over the Cowskin Creek, so there is a small hump in the road that causes very limited vision.

DEB PLOPPA, 909 NORTH MAIZE ROAD, #726 said they are original owners of their unit in Timber Grove Lakes and it is adjacent to the retention ponds that flow into the Cowskin Creek. She asked if there was a requirement for a hydrology study to determine the impact of the proposed density on run off. She noted that it was important to be aware that there are increasing demands on the capacity of the floodway caused by continuing development along Maize Road. She said they have experienced the effects of flooding twice since living at the location. She mentioned problems with their insurance company increasing their deductible because of flooding.

G. JOHNSON, 909 NORTH MAIZE ROAD, #718 said she recently moved in and one of the things that attracted her was the community plan. She said she was confused and asked why have a CUP if changes are allowed without the permission of all the other parcel owners. She said she understands that business plans come and go and certain realities change with time. She said many of the adjacent homeowners purchased what will be their final home based on what they thought their neighborhood could be. She said the use of the area has been changed once which was agreed to, now the same people want to increase the density 5-6 times what was agreed upon. She asked why is it that big business has non-stop opportunities to change the design of the neighborhood but the individual homeowners that live there have to accept whatever is decided. She asked the Commission to consider what they would do if the roles were reversed and she was in their position.

RICHARDSON asked if she was at the meeting with the developer. He asked if she was simply against the project.

JOHNSON said she was at the meeting; however, she has read over the HOA's requests. She said it doesn't seem like the homeowners in the area have much involvement but they are the ones that get what comes out of this.

RAMSEY said he lives on a lake within a \$500,000 dollar home and apartments are going up right in front of him.

JUDY HILL, 909 NORTH MAIZE ROAD, #720 said she has lived in this community for 15 years. She said she was one of the people who dealt with Walmart, the flood people and zoning. She said her biggest problem she had with this proposal is emotional. She said she is a homeowner who lives in a CUP that has been in existence 33 years. She said she didn't buy a home or property that was zoned different. She commented that the agent said at the DAB meeting that they were building luxury apartments to provide rentals in the area. She said they are giving no consideration to luxury living for those apartment dwellers by jamming a giant property taking up all the ground in the area. She said there is no pool and no outdoor court area. She said enlarging the drainage area will just make for more water. She asked the Commission to thoughtfully consider their decision. She said she knows something is going to be built there and that the owner has a right to build. But, she said to take up every ounce of land in an established CUP with this giant project isn't right. She said they were excited

about the twin homes proposed in 2008 because they looked lovely. She said this proposal is not lovely and they are not looking forward to it. She mentioned the comment about half million dollar homes on Maize Road with commercial development next to them, but those homeowners bought those homes knowing how the land was zoned. She said the people who bought into Timber Grove Lakes had the anticipation that they had rights due to the CUP. She asked the Commission to look at all the loose ends of the project including the water retention, number of units and traffic. She asked the Commission not to give the agent and owner free will to do what they want with the property.

FOSTER asked about the previous flooding event where the water came within ten feet of her home.

HILL said it was scary. She said the water starts up north runs down Maize on one side, and then the other towards the Cowskin Creek. She said the westbound water reversed in flow and came back like a broken dam running the other way. She said she was out on her patio and it kept creeping up and got within four feet of their retention wall. She said the water seeped under the retention wall into the foundation through the wall ruined their new carpet. She said that has happened twice. She said the HOA's common ground hooks up to Swanson Park. She said when the waters from the north come they don't always make the turn and race across Swanson Park covering the HOA's tennis courts and swimming pool. She said the project along Maple Road didn't straighten out the quantity of water coming down the Cowskin Creek and they still have major water issues. She said their insurance was cancelled. She concluded by saying that it just wasn't thoughtful or good business for the community to increase something by 500%.

RON BOGLE, 909 NORTH MAIZE ROAD, #732 said he wanted to speak about water and the bridge. He mentioned the bridge has not had any preventive maintenance done on it in 30 years. He said one of the abutments is broke; the approach has fallen at least four inches on the northeast corner and there are voids on both the southeast and northeast corners. He said the walls of the bridge are intact now but rerouting that all that traffic will affect it. He said if the development goes through they would be placing an additional burden on the homeowners to maintain the wall because each car would cause a mini earthquake each time one drives on the bridge. He said he does not believe the bridge was constructed for the density of traffic they are talking about. He said water run off needs to go under the bridge in any area 4' X 12'. He said the improvements south along Maple did not include Swanson Park and their area. He said he was not a structural engineering and doesn't claim to be one but added that there are a lot of engineering issues to be considered on this project.

RICHARDSON asked if he was in agreement with the correspondence dated December 10, especially reducing the number of units from 72 to 48.

BOGLE said he was all about compromise and establishing common ground. He said he would agree to the compromise of 48 units, but he doesn't want to and thinks the original 2008 amendment to the CUP should be honored. He said he doesn't believe this development should impose maintenance costs on the HOA.

FOSTER asked about the location of the wall and if it is on HOA property.

BOGLE said he didn't know but he hoped the applicant owned it.

SUZANNE JONES, 909 NORTH MAIZE ROAD, #210 said she just bought into this place 17 months ago as a great place to retire and that is why she moved there. She said her big concern is the building being three stories so all she will be looking is a big blank wall with windows. She said there are very little trees and she is unable to plant trees because the area is marked with utility easements and a big green box. She also mentioned the traffic lights with people parking against the wall on the east and south sides. She said if the wall is only 5 feet tall those lights will bounce against the wall straight into her bedroom, living room and kitchen all night long because people work second and third shifts. She asked the Commission to stop and go back to the original 2008 plan.

GUY MCCORMICK, 909 NORTH MAIZE ROAD, #214 clarified that the stone wall is 4 foot tall and he believes today's zoning requirement is a 6 foot wall. He said it doesn't seem reasonable that since the development backs right up to the wall that the owner wouldn't be able to help with maintenance. He said the HOA has done an enormous amount of work along the wall removing shrubs and trees in order to maintain the integrity of the wall. He mentioned that they don't have to do that along the Walmart area because Walmart does a beautiful job of maintaining that area. He said it would be difficult if not impossible for the members of the HOA to go over to the other side of the wall to do maintenance or if the wall itself needs repair. He said there is no space whatsoever between the bridge and the wall; they abut each other. He said they believe vehicles using the bridge will cause vibrations and opportunities to hit the wall which would be a problem. He concluded by clarifying that the original CUP on this parcel limits the height of any office buildings to 35 feet so the comment about building a 6 story building was incorrect.

GOOLSBY clarified that the speaker thinks the applicant should participate in the expense of maintaining the wall.

MCCORMICK responded yes, that the wall was an important feature of the development.

GOOLSBY commented that the handout sounds like financial extortion when they indicate they will drop all protests if the applicant agrees to participate in the maintenance of the wall.

MCCORMICK commented that the wall was one point in the list.

RAMSEY asked why a section of the wall was white.

ED PLOPPA, 909 NORTH MAIZE ROAD, #726 said at one time a wrought iron gate was installed for emergencies and that was subsequently closed off with the cinder block.

RAMSEY commented that they haven't followed their own architectural regulations.

PLOPPA conceded probably not and that was a good point.

DAILEY asked if they should ask legal about ownership of the wall. He asked if legal had any comments on maintenance of an existing wall and the demand to make a neighbor take care of that.

VANZANDT said he had nothing specific to add and commented that many times there are a variety of issues including was the wall located on a homeowners property or was it located on a reserve. He said there were a variety of answers to that question.

DAILEY asked what if the applicant does not own the land under the wall. He clarified that there was no State law that dictates that the applicant has to maintain it.

VANZANDT commented that was correct and stated if the wall was not located on the applicant's property, they would have to be in total agreement to provide maintenance.

LARRY SHOUF, 909 NORTH MAIZE ROAD, #312 said he believes they have the right to rely on a promise. He said they purchased their home in 2013 they asked the realtor what about the land that was on the other side of the wall, particularly since their living room and family room have large windows that face that view. He said the realtor informed them that the area would be developed into townhouses. He said that was why they bought the property. He referred to the draconian changes between the Staff Report from 2008 and current Staff Report. He reviewed differences between the Staff Reports including references to "low density designation" and that the amendment would allow for 5.3 units per acre. He said the report emphasized the importance of the density back then, but the current Staff Report does not say that. He mentioned that they were told that it is a total of 6.5 acres, which staff divides by the number of units. He said in the 2008 the report focused on the amount of "buildable land" which is 2.5 acres. He commented that he had a series of these changes of emphasis. He said the 2008 Staff Report emphasis 4 times that the proposed amendment for 15 units was the appropriate density.

MOTION: To give the speaker one additional minute.

MCKAY moved, **DOOL** seconded the motion, and it carried (12-0).

SHOUF said the differences in the staff reports was draconian. He commented that staff indicated the proposal is within the legal density. He asked when do they get an adjudicator to consider that from his point of view, when he has made bargains in his lifetime if someone comes back and says they can't fulfill the bargain, he gets to ask why.

RICHARDSON asked if he was at the 12-10-15 meeting and if he agreed with the request for 48 units.

SHOUF said he was not at that meeting. He said he wanted someone to tell him why they can't do what they promised to do in 2008. He said he would probably go with 48 units so they can get something.

SUSAN OSBORNE, 909 NORTH MAIZE ROAD, #214 commented that she was at the 12-10-15 meeting. She said she was on the Planning Commission for 10 years so she was used to being on the Commissioner's side of the table. She said part of her has looked at the issue from that perspective. She said the neighbors don't want the area left as a park, they have always wanted to see something developed there and anticipated an office building. She commented that the parcel, although zoned GO,

has many restrictions developed with the initial CUP. She said the neighbors supported the amendment requested in 2008 and noted that it was the first time the applicant asked for residences with additional landscaping and compatible design. She said the Commission has heard the neighbor's reasons for opposing the proposal.

OSBORNE stated that the neighbors most affected by the proposal met with the developer's agent and planning staff and presented the 6 point proposal before the Commission as a Handout. She said the developer asked for neighbors input and exactly what would he need to win their support. She added that two representatives from the adjacent office building who also have concerns about density and traffic also attended the meeting. She said it was a congenial meeting and they believed the agent was going to accept most of the points. She mentioned #2 and said the agent agreed to that if they could have 60% covered parking near the stone wall. She said a lot of the neighbors were mixed on that issue. She said point #3 was already accepted and referred to the redesign of the buildings which the neighbors appreciated. She said the agent also agreed to concentrate most of the stone on the units facing the neighbors. She said he admitted that they could not meet the 50% request but thought they could meet between 30-35%. She said the agent also agreed to #4 regarding lighting. She said as far as #5 regarding the shared maintenance, the agent never disagreed or brought that up. She said the sticking point at the meeting was item #1 regarding the number of units. She said they left the meeting thinking the applicant would share in the maintenance of the wall. She added that she doesn't know who the wall belongs to but considers it part of the CUP. She commented that she does not know how the neighborhood is going to take care of the wall, particularly if the area is gated. She said she does not believe the neighbors are trying to extort the developer; that is not how they meant that statement. She mentioned item #6 and commented that the office building representatives request that be included.

OSBORNE said her major point was that she believes a CUP is like a family and that all the units need to work together for things to work well. She said one parcel should not be detrimental to the other. She said this is not just a case of one development butting up to another. She mentioned the neighbors concern regarding increased congestion.

MOTION: To give the speaker two additional minutes.

MCKAY moved, **DOOL** seconded the motion, and it carried (12-0).

OSBORNE said the reason they asked for a total of 48 units was to limit the congestion and ingress/egress. She said although they reluctantly asked for 48 units, they felt it was a fair and workable compromise. She said when she was on the Planning Commission they focused on congestion so that Maize Road would not be as bad as Rock Road. She said the neighbors have seen the increase due to the Neighborhood Walmart, but they also recognize they use ingress/egress built into the original CUP. She said the original CUP did not account for the traffic that 72 residences generates. She said she suspects that is why Parcel 2 did not allow residential housing with all the other restrictions because of the concern for traffic. She reiterated that the neighbors built or bought their homes with the knowledge that Parcel 2 would be restricted for an office building of 15 residence and have low traffic. She concluded by requesting that the Commission deny proposal unless the number of units is reduced to 48.

FOSTER asked if the neighbors were talking about 3 buildings, with 16 units per building.

OSBORNE said it could be 2 or 3 buildings.

RICHARDSON clarified they would be flexible with the number of stories of the buildings.

OSBORNE said yes.

RICHARDSON asked Ms. Osborne what were her feelings about the necessity of a connection to the south with just 48 units.

OSBORNE said she understood 2 ways in and out were needed. She said it is going to be expensive to add another ingress/egress. She added that both of the entrances into this parcel area though parking lots.

GOOLSBY said the developer already stated that the development would not be feasible at 48 units.

OSBORNE said the neighbors are willing to accept a 300% increase with the 48 units.

MILLER STEVENS said she does not believe the Planning Commission is present to argue with folks giving testimony. She said the Commission's job is to listen to the testimony and accept it whether they like it or don't like it. She said she does not believe it is the Commission's position to argue with them.

GRAY said obviously there were a lot of points made in opposition to the project. He commented that there has been so much discussion about an agreement made in 2008. He said that amendment did not take away the owner's right to develop the CUP with any of the restrictions at that time, it just amended his ability to add residential to a CUP that prohibited it. He commented that they could build 3 office buildings similar to what is shown on the site plan without adding access to Central and without any consideration to setbacks to residential property. He said there was a staff report from engineering that estimated that approximately 450 cars come through the parcel a day, he said this is not a high density commercial development even though the owner could do that with the same site plan they submitted. He said they do not see how they are being incompatible with the neighborhood by proposing residential usage on a building site that could be commercial.

GRAY said they agree to taking care of the wall as part of the bridge.

MOTION: To give the speaker one additional minute.

JOHNSON moved, **TODD** seconded the motion, and it carried (12-0).

GRAY said a lot of discussion has been given to the bridge and flooding. He said it is unfortunate and he is sympathetic with the people who have lived on the property and encountered flooding for 20-30 years, but the flooding exists there now because of factors way beyond the development of the last 6 acre parcel. He said the impact on flooding caused by this development is inconsequential. He said they will have to mitigate the impact the footprint will have on the existing flooding. He commented that the resident's properties will continue to flood if something doesn't happen more globally with the Cowskin Creek. He summarized concerns as visual aesthetics, density and flooding.

JOHNSON asked about the comment about a building 6 stories high.

GRAY said he was referring to the GO zoning, but added that the CUP restrictions limited the building height to 35 feet.

TODD mentioned the 6 items in the 12-10-15 correspondence and clarified that the applicant's only sticking point was #1 the number of units.

GRAY answered that he wouldn't say that was their only sticking point, it was the significant sticking point. He said he would itemize each point on the correspondence. He stated that item #1 makes the project economically unviable; #2 they can maintain a 10 foot easement on the two bends of the leg on the northern portion. He said they cannot accommodate the 15 feet because there is not enough room. He mentioned that they have agreed to a tree every 15 feet for additional screening in exchange for strategically locating covered parking so it was not right out the view of a resident's window. #3 he said they would agree to 30% masonry on the neighbors but only 20% of that being flagstone and 10% brick. #4 he said they are in agreement with. #5 said they would like some idea of what a "maintenance agreement" might be in relationship to the fence. He said they would be willing to keep brush and vines from overgrowing it, but if there is an earthquake would they be willing to cover 50% of the cost to repair or replace it, he said that was a heavy question and they couldn't sign onto that liability at this time. But caring for the wall so it doesn't become overgrown they feel would be advantageous, but liability of the structural integrity of the fence unless it was damaged by a resident of the property, he didn't think they could take that responsibility on. #6 he said they are in agreement with doing that and have discussed entering into a maintenance agreement for the lake and parking lot with the office building.

RICHARDSON asked if the covered parking was enclosed or carports and if that would necessitate removal of the landscape screening.

GRAY said the covered parking would be carports and there had been discussion about a garage here and there but that would depend on how much room they had left after having to give up land for a landscape easement.

DAILEY asked the applicant to comment on the condition of the bridge and maintenance and how they would improve it for this project.

GRAY said the bridge is actually quite attractive, it has some age just like the wall. He said someone built a 25-foot wide bridge there for a reason, because they intended to have vehicle traffic go across it. He said the applicant will have to have a structural assessment of bridge itself. He mentioned that the pavement going up to the bridge has settled and washed out but the bridge itself still looks like it is in good condition. He noted the comments about the rusted plate on the underside but that plate was probably the forming plate to hold the concrete on top of. He said at this time they feel the bridge is adequate until a structural engineer fully assesses it and tells them otherwise. In addition, he added that since staff requiring access to Central, they will have to fix the bridge. He said regardless of what condition the bridge is in, it will be the applicant's burden to make it safe for commuter travel.

DENNIS he understood where the applicant and neighbors were on the number of units and asked if there was a compromise.

GRAY said if he was not a general contractor and the property owner wasn't a partner of his, the property would be difficult to develop at 72 units and make it economically feasible. But, he is a general contractor and his partner owns the land which gives them a greater ability to make the project successful. He said they still have to maintain minimum numbers of staffing, property management and maintenance and the financial burden of capital costs. He said he does not believe it is viable at a number less than what they are asking for.

RICHARDSON asked for clarification of uses for Parcel 2.

MCNEELY said the 2008 CUP amendment added residential development but the Parcel still retained the ability for office development.

JOHNSON asked how the 35 feet building height is measured and what was the landscape requirement as far as separation between single and multi-family residences.

MCNEELY said according to the UZC on a flat roof it is typically to the top of the parapet and on a pitched roof it is the half way point from the eaves to the ridge of the roof. He said the CUP landscape requirement was one shade tree or equivalent every 30 feet. He mentioned the discussion about changing that to every 15 feet but mixing in parking structures.

GOOLSBY clarified that the proposed development would not be any taller than the office building to the north.

MCKNEELY replied that is correct.

WARREN asked how Traffic Engineering evaluated the additional traffic.

MCNEELY said Traffic Engineering was okay with the two points of access. He said they estimated 6.5 vehicles trips per day per unit from the multi-family residential.

RICHARDSON said he lives in a subdivision with 200 houses and two ways in and out. He said this is approximately 100 dwelling units and there are two driveways along Maize road. He said it seems that would be sufficient. He said he was not convinced they needed that connection to the south if the number of units was reduced. He said he takes exception and believes they can eliminate the connection to the south and eliminate the problem with the bridge if they are talking about 40 units.

DIRECTOR MILLER clarified the location of the entrances along Maize Road and explained that if for some reason you could not go south on the existing road from the office complex, there would be no second way to get into the complex. He said from a safety standpoint, staff felt a second point of access was needed to the south.

FOSTER asked about parking requirements which appeared to be 1 ½ stalls per unit and if that would be reduced if this were developed as commercial.

MCNEELY said for office development it would be 3 spaces per thousand square foot of office space. He said multi-family residential is 1.25 spaces per one bedroom and 1.75 spaces per two bedroom.

FOSTER asked if 8 foot for landscaping was sufficient and said he felt the 10 foot minimum should be required. He asked if it was appropriate to require a five foot wall easement in the plat to provide for maintenance access. He also asked about the height of the wall being 4 feet and clarified that if the wall was not in existence, the applicant would be required to provide a 6 foot fence in addition to the landscaping.

MCNEELY responded that the CUP already shows a 5 foot wall easement on the office side. He said staff is comfortable that the additional landscaping will mitigate the height of the wall, which he said is nice and staff doubts someone would spend that much money today to build a similar wall. He said if they tried to increase the height of the wall they may cause damage that will cause it to deteriorate more quickly.

DENNIS mentioned staff being responsible to see that detention requirements are met and he said has a problem with that because he lived through the Halloween flood and other floods that have come through the area. He said he doesn't know if he agrees with leaving it up to staff to resolve detention issues on flooding.

MCNEELY explained that when the applicant goes through the building process, if they add more than one acre of impervious structure or pavement on the property, City Stormwater Engineering reviews the increased detention requirement.

DENNIS clarified that staff wants the Commission to approve the application without knowing what the impact will be.

MCNEELY said it is common practice that zoning be approved prior to doing a drainage plan for a property. He said staff has confirmed with Stormwater Engineering that when the applicant goes to the building permitting phase, and calculations are done on the impervious surface area, they will be required to provide a plan to meet City Stormwater requirements. He added that he did not believe staff was in a position to recommend a change in policy to require that engineering be done on a property prior to zoning.

RICHARDSON suggested that any changes in the site plan to be brought back to the Commission for review.

DENNIS referred to the Staff's recommendation on architectural compatibility and asked what was staff's recommendation on the percentage of field stone and brick.

MCNEELY responded that the language in the CUP, like most CUP's, requires that there is an architectural consistency requirement. He said this CUP specifies use of the stone that is used throughout the CUP. He said most other CUP's don't include a percentage, they just require that the material be included. He said if he were asked, his recommendation would probably be between 25 – 30%, something that would cover the bottom story of the building.

RICHARDSON asked if this application would go to City Council for final approval.

MCNEELY said after the Planning Commission's decision today, there is a 2 week protest period. He said if property owners protest the Planning Commission's decision, the application will go to City Council.

MOTION: To approve subject to staff recommendation and the compromises agreed to by the developer, that the number of units be limited to 72 units; building height to a maximum of 35 feet; 10 foot easement to the north; strike 15 foot easement to the west; maintenance of the wall but no financial burden as far as the structural integrity; lighting facing away from the wall and that the building be covered by no less than 25% field stone facing the neighborhood.

GOOLSBY moved, **RAMSEY** seconded the motion.

VANZANDT asked for clarification on the easements. He said he believed it was 10 foot to the north and 15 foot to the west.

DENNIS asked about detention.

GOOLSBY said he was satisfied with staff's explanation that the issue would be covered by Stormwater Engineering.

JOHNSON said he was probably going to oppose this. He said he can't support 500% increase. He said everyone has a right to ask for a zoning change but the Planning Commission does not have to grant it.

RICHARDSON said he agreed with Commissioner Johnson. He commented that the Commission approves dozens of duplex lots that developers seem to want and that seems to be feasible, but 16 units per building for a total of 48 units is not feasible. He said he couldn't get his head around that. He said he can't support 72 units at this location.

TODD said having been involved in development there are financial considerations. He said this is an infill project that he felt was appropriate between the residential units and the commercial development so he was going to support the motion.

DENNIS said he was concerned about density of 72, the character of the neighborhood and detention. He said this proposal is a big change from what the neighborhood thought they were going to get. He said he will not support the motion.

FOSTER commented that one of the tenants of zoning is surety of land use. He said the neighbors have demonstrated that is important to them.

SUBSTITUTE MOTION: 48 units maximum; 35 foot building height; easement on the north side for enough room for a tree every 15 feet; 10 feet screening on the north; 10 feet or whatever will work on the west side; minimum 30% masonry on the neighbor's side and 20% on the south side; lighting as agreed to in item #4; #5 recommend a survey be done and once the location of wall is known negotiate requirements for maintenance between the two parties; pond and parking lot maintenance agreement as stated in item #6.

FOSTER asked legal if he should request the applicant agree to his motion.

GOOLSBY mentioned that the applicant clearly stated 48 units will not work.

DIRECTOR MILLER said he believed it was up to the Planning Commission to approve what it thinks is reasonable and prudent and then it is up to the applicant to decide whether or not they can make that work or not.

FOSTER moved, **RICHARDSON** seconded the substitute motion.

RAMSEY said he can't support something putting the burden of cost on the developer when the homeowners can't take care of the wall themselves or follow their own regulations. He said he does not see why the Commission would put the cost of that on the developer.

FOSTER commented that if it is found that the wall is clearly on the applicant's property and they are benefiting by not having to spend \$-30-\$45 a lineal foot to provide screening, he feels it is appropriate.

DAILEY commented that large businesses, restaurants, and chain stores don't build unless they have enough support in an area. He said the applicant already states that 48 units would not work so it kills the project right there.

DENNIS said he does not know if it is the Planning Commission's position to decide what is economically feasible or not they have to live by the Golden Rules and economic feasibility is not one of them. He said character of the neighborhood and neighborhood opposition are factors to be considered under the Golden Rules and that is why he will be supporting the substitute motion.

The **SUBSTITUTE MOTION** failed (6-6) **GOOLSBY, MCKAY, DAILEY, TODD, RAMSEY, WARREN** - No.

The **ORIGINAL MOTION** failed (6-6). **DENNIS, DOOL, FOSTER, JOHNSON, MILLER STEVENS** and **RICHARDSON** – No.

MCKAY said he has a problem with the agent's statement that anything less than 72 units wasn't economically feasible without seeing a breakdown of the costs. He asked if there was a compromise anywhere between 72 and 48. He asked how about splitting the difference with 60 units.

GRAY said he was in a situation that he didn't have support either way.

SECOND SUBSTITUTE MOTION: All the elements mentioned in the original motion with a maximum of 60 units.

MCKAY moved, **GOOLSBY** seconded the motion.

GRAY commented that he agreed with the motion as it stands.

FOSTER said he does not believe it is appropriate to negate maintenance responsibility if the wall is fully on the applicant's property.

MCKAY clarified that wall maintenance could be split it 50/50. He said the applicant and neighbors are going to have to sit down and settle that as neighbors to make it work. He said the Commission can't make that agreement.

There was considerable discussion regarding maintenance whose responsibility it was for maintenance of the wall.

JOHNSON suggested the Commission put in a requirement that the applicant build a 6 foot wall. He said he is not buying the argument. Since the applicant is getting something they would have to otherwise build themselves at their expense, they should share in the cost of maintenance.

WARREN suggested that Commissioner McKay make it part of his motion that the applicant enter into an agreement for the costs of maintenance of the shared wall.

GRAY agreed to enter into an agreement for maintenance of the wall.

The **SECOND SUBSTITUTE MOTION WAS AMENDED** to include that the applicant enter into a maintenance agreement for the wall.

FOSTER asked for a clarification on the percentage of masonry facing the neighbors.

MCKAY said 25% masonry facing the neighbors but no masonry on the south side.

The **SECOND SUBSTITUTE MOTION AS AMENDED** carried (8-4). **FOSTER, JOHNSON, MILLER STEVENS** and **RICHARDSON** – No.

MCKAY (Out @4:25 p.m.)

JOHNSON (Out @4:25 p.m.)

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5. **Case No.: CON2015-00036** - Kenny Kalb (Applicant/Owner) and Kaw Valley Engineering, c/o Tim Austin (Agent) request a County Conditional Use for Agricultural Sales and Services in RR Rural Residential zoning on property described as:

The North half of the Southwest Quarter of Section 10, Township 27, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a conditional use for “agricultural sales and services” on the unplatted RR Rural Residential (RR) zoned site. The site is currently an agricultural field. The applicant’s business, Blick’s Phosphate Conversions, LLC, delivers fertilizer to the area’s farms and proposes the RR zoned site be used as a staging, parking and maintenance area for the business’s trucks and parking for the employees; the applicant has not indicated how many trucks or employees will be on the site. The site will not be used for the storage of fertilizer nor the sale and display of the fertilizer.

The UZC Unified Zoning Code (UZC), Sec II-B.1.h., defines agricultural sales and services as an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like, and including accessory food sales and machinery repair services. This definition shall also include greenhouses that are used for wholesale and/or retail purposes. The UZC, Sec.III-D., requires a conditional use for agricultural sales and services in the RR zoning district.

The applicant’s trucks will depart from the site, pick up the fertilizer at an off-site location, then take the fertilizer to the properties that have ordered the product and when finished and empty return to the site. The trucks will not have their holding and dispensing portions cleaned at the site, however road grime on the trucks will be washed off at the site, on an outdoor concrete or asphalt pad. The site plan’s drawing shows a 9,600 foot maintenance storage building, but the text references a 12,000-square foot maintenance storage building. Regardless of the size, the proposed maintenance shop will be used for tune-ups, brake repair, transmission and engine repair, lubrication, etc., but will not include painting or body repair work.

The Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) and Kansas Department of Health and Environment (KDHE) policies prohibit any commercially generated waste, to include chemical waste from commercial floor drains, from being discharged into lagoons or septic systems. The storage and disposal of waste oil, transmission fluids, lubricants, batteries, cleaning solvents and any other similar types of chemicals/oils used in the maintenance of the trucks must be done according to both the MABCD and KDHE policies. The MABCD and the Sedgwick County Fire Department require building approval for the proposed maintenance shop.

The applicants’ site plan shows a 850-foot (x) 418-foot (8.16-acre) northwest portion of the 80-acre site as the agricultural sales and services site. The site plan shows the rest of the 80-acre subject property as ‘future expansion,’ including a proposed detention area located in the northeast corner of the site. The MAPC can consider approving the entire site for the requested use; however, the detail (8.16-acres) on the site plan would define the area of activity. If the proposed detention is needed for initial use it can use that part of the site. Before the applicant could use the part of the site plan labeled future expansion they would need to file an adjustment to the site plan to provide more detail.

The site plan also proposes that those uses permitted by right in the RR zoning district be allowed. The site plan proposes that a pumpkin patch, a corn maize and agricultural activities that allow the sale or use of agricultural product grown on the site. The UZC, Sec.II-B.1.h., defines “agriculture” as the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock. This definition shall include, as a permitted accessory use, the sales of nursery stock, firewood, Christmas trees and other plants and produce raised on-site. However, because of a lack of details on a corn maize or a pumpkin patch, those uses may require a conditional use for outdoor entertainment. A revised site plan needs to show, but not limited to, setbacks, proposed lighting, screening, signs, any outdoor storage and fencing. The site plan shows a proposed K-DOT reserve, the result of a portion of the northwest corner of the site being located within the proposed Northwest Bypass/Corridor Protective Overlay.

RR zoned farming and ranching operations, agricultural fields and large tract single-family residences are located on all sides of the county site. An exception to development in the area is the 14 half-acre lots of the Marksdale Addition, which is located approximately a half-mile east of the site; recorded June 28, 1968. Wichita and SF-5 Single-Family Residential (SF-5) zoned single-family residential subdivision development is located approximately three-quarters of a mile east of the site. CON2014-00020, a county conditional use request to permit mining and quarrying on 88.32-acres of SF-20 Single-Family Residential (SF-20) zoned unplatted land is located approximately a half-mile east of the site.

CASE HISTORY: The site is being platted as SUB2015-00043, the Kalb Addition. SUB2015-00043 was approved by the Subdivision Committee December 10, 2015 and will be considered at the December 17, 2015, MAPC meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	RR, LC	Large tract single-family residences, agricultural fields
SOUTH:	RR	Agricultural fields, farming and ranching operations,
EAST:	RR	Agricultural fields, farming and ranching operations, ½-acre single-family residences
WEST:	RR	Agricultural fields, farming and ranching operations

PUBLIC SERVICES: There is no public sewer nor water available. The site will be served by an on-site sewer and well water. The site has direct access onto 167th Street West a paved two-lane County Highway. There can be an anticipated increase in industrial truck traffic to the area generated from the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” shows the site to be located within the Wichita 2030 Urban Growth area and categorized as “urban development mix.” The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30-years with uses predominately found in the “urban residential use” category. However, there is a strong likelihood that concentrations and pockets of “major institutional uses” “local commercial uses,” and “open space uses” will ultimately be developed within this area as well, based on market driven location factors. In certain areas, especially those with close proximity to the future Northwest Bypass, there is the possibility that future uses may include “regional commercial” and “employment industry center.”

The site's and area's current development and RR zoning is more characteristic of the "rural" category , which is intended for those agricultural uses commonly found in Sedgwick County and predominately large (two-acres or more) tract single-family residential development. The applicant's proposed staging, parking and maintenance area for the business's trucks and parking for the employees (agricultural sales and services) is placed in close proximity to the mostly rural half of Sedgwick County (its customer base) as well as the railroad lines located in Wichita and the county, where the applicant gets its product for distribution. Consideration of a conditional use is required for agricultural sales and services. The site has a portion of the Northwest Bypass on its northwest corner, which is anticipated to change the character of the area into a mix of commercial and urban scale residential development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed Conditional Use be APPROVED, subject to platting within a year and the following conditions:

1. As shown on an approved site plan the agricultural sales and services is a staging, parking and maintenance area for the business's trucks and parking for the employees and those uses permitted by right in the RR Rural Residential zoning district outside of the area used for the approved agricultural sales and services .
2. The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) and Kansas Department of Health and Environment (KDHE) policies codes, policies and standards. This plan shall include the safe storage and disposal of all commercial waste, the prevention of any commercial waste from entering the application area's lagoon, to include floor drains from the garage or a proposed outside concrete/asphalt pad, and the safe containment of any spilled commercial waste. This approved plan must be submitted to the MABCD prior to the issuance of any building permits.
3. The applicant shall submit the "Regulated Waste Activity Notification" form to KDHE, and obtain a regulated waste license from the KDHE. This approved license must be submitted to the County prior to the issuance of any building permits.
4. Development and maintenance of the site shall be in conformance with the approved site plan, which shall include all structures to be set back behind all current building line, location of the lagoon, parking for the trucks and employees, lights, signs, outdoor storage, screening, fencing and an approved surface for the parking and circulation area. The approved site plan shall be submitted prior to the issuance of any building permits.
5. Before the applicant can use the part of the site plan labeled future expansion they would need to file an adjustment to the site plan.
6. No outside storage of salvage vehicles, parts chemicals, oils, or solvents.
7. No bodywork or painting of vehicles.
8. All maintenance work on vehicles shall take place inside the maintenance shop, which shall have a concrete floor.
9. The maintenance shop shall be used for the trucks used in the applicant's staging, parking and maintenance area only and the shop shall not be advertised as a maintenance repair shop for trucks or vehicles not used by the applicant in this business.
10. MABCD and Sedgwick County Fire shall approve maintenance building plans, prior to the issuance of a building permit.

11. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the surrounding area:** The RR zoned farming and ranching operations, agricultural fields and large tract single-family residences are located on all sides of the county site. An exception to development in the area is the 14 half-acre lots of the Marksdale Addition, which is located approximately a half-mile east of the site; recorded June 28, 1968. Wichita and SF-5 Single-Family Residential (SF-5) zoned single-family residential subdivision development is located approximately three-quarters of a mile east of the site. CON2014-00020, a county conditional use request to permit mining and quarrying on 88.32-acres of SF-20 Single-Family Residential (SF-20) zoned unplatted land is located approximately a half-mile east of the site.
2. **The suitability of the subject property for the uses to which it has been restricted:** The rural Sedgwick County site is zoned RR, which primarily permits agriculture uses and large lot residential uses. The site is currently an agricultural field and could continue to be used in this manner.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** There can be an anticipated increase in industrial truck traffic to the area generated from the site. The conditions attached to the conditional use should minimize negative impact of the development.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” shows the site to be located within the Wichita 2030 Urban Growth area and categorized as “urban development mix.” The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30-years with uses predominately found in the “urban residential use” category. However, there is a strong likelihood that concentrations and pockets of “major institutional uses” “local commercial uses,” and “open space uses” will ultimately be developed within this area as well, based on market driven location factors. In certain areas, especially those with close proximity to the future Northwest Bypass, there is the possibility that future uses may include “regional commercial” and “employment industry center.”

The site's and area's current development and RR zoning is more characteristic of the "rural" category, which is intended for those agricultural uses commonly found in Sedgwick County and predominately large (two-acres or more) tract single-family residential development. The applicant's proposed staging, parking and maintenance area for the business's trucks and parking for the employees (agricultural sales and services) is placed in close proximity to the mostly rural half of Sedgwick County (its customer base) as well as the railroad lines located in Wichita and the county, where the applicant gets its product for distribution. Consideration of a conditional use is required for agricultural sales and services. The site has a portion of the Northwest Bypass on its northwest corner, which is anticipated to change the character of the area into a mix of commercial and urban scale residential development.

5. **Impact of the proposed development on community facilities:** There will be an increase in industrial truck traffic.

BILL LONGNECKER, Planning Staff presented the Staff Report.

RICHARDSON asked if the street was paved.

LONGNECKER responded that the road is a two-lane paved arterial.

RICHARDSON asked if the staging area is also paved.

LONGNECKER responded no, the staging area is not paved because County standards allow that to be crushed gravel.

RICHARDSON suggested taking the future expansion area off of the site plan drawing since it is not allowed until the applicant does something else. He said showing it on the site plan implies that it is already approved. He also asked about the screening requirements.

LONGNECKER stated that the County does not have screening requirements as far as landscaping so staff did not look at screening as a critical component of this site.

RICHARDSON asked if staff has had comments from any other citizens.

LONGNECKER replied no, staff has received no other comments.

TIM AUSTIN, KAW VALLEY ENGINEERING, 200 NORTH EMPORIA, AGENT FOR THE APPLICANT said they are in agreement with staff comments and recommendations. He said as far as traffic is concerned, it will be infrequent because the applicant has a limited inventory of vehicles and they travel to multi-states so they are here locally periodically.

KENNY KALB, 9512 WEST MOSS ROAD, MAIZE, APPLICANT said he makes fertilizer and fire retardant for a living. He said he currently owns four units and there is a semi-truck and a pickup truck with each unit. He said his crews are on the road 235 days of the year. He said they spend approximately 30 days a year in the shop. He said they need a place to do maintenance and there will be 25 employees. He said they do not haul fertilizer locally but cover 14 states. He said they are gone more than they are home but they need a home base and are trying to move the business from western Kansas to Wichita.

TODD asked if limiting the application area to eight acres will work for the client.

KALB indicated he picked this property because Colwich Road is a pretty major corridor to get onto highways 96 or 54. He said he didn't want to use the rest of the property for anything but farming. He said the other corner has a pipeline easement. He said as long as they can stay in the northwest corner they think they can make it work. He said that all depends on how much land KDOT may possibly take because they don't want to be right next to the highway if the bypass goes through.

AUSTIN said in reference to Commissioner Richardson's comment about the future expansion being shown on the site plan, they would like to leave that in there and just indicate subject to further approvals and conditions, etc.

There was further discussion regarding the size of the proposed site and if eight acres would be sufficient.

KALB said he would probably rather say 10 acres.

RICHARDSON suggested a net usable area of 10 acres after the highway takes off acreage.

AUSTIN suggested keeping it flexible and saying the west half of the property. He said that way it makes it easy if they need to move things around.

FOSTER said he didn't see a side yard setback relative to the neighbors to the north.

AUSTIN said there is a 25 foot utility easement on the north line. He also mentioned drainage along the north line.

MARGARET MANNS, 1818 NORTH 167TH STREET WEST, GODDARD said according to the drawing they were sent, the business is going to go in 40 feet from their property line. She said to clarify the easement, it is 10 feet on their side and 15 feet on the applicant's side for a total of 25 feet. She said another concern she has, in addition to the concerns she mentioned previously, is that she has a small organic gardening business where she sells produce at the Wichita , Kansas Grown Farm Market. She said although she is not certified organic, she can assure her customers that she does not use any chemicals. She said many of her customers depend on that because of health issues they have. She said she is asking for some assurance from the applicant that they will not be bothered with chemicals. She said that was important to her. She said they are still concerned about the drainage because the building will be raised up because the northwest corner stands in water. She said although most of the water will be diverted to the east what about the water that will come north.

GOOLSBY (Out@ 4:40 p.m.)

FOSTER referred to the site plan and mentioned that the current setback to the building is approximately 120 feet. He asked if they would be able to see the facility from their home.

MANNS responded yes they will see the facility because it is all open area. She mentioned that their sons are hunters and also like to shoot their rifles in that direction into a dirt hill that stops the bullets so that will have to change.

FOSTER clarified that the Planning Commission did approve the Comprehensive Plan that goes out to 2035 and implementation of the northwest bypass is not recommended within that timeframe.

MANNS said when they asked for permission to build a garage they were denied, unless they wanted to build it in the southeast corner of their property. She said they have been living with the possibility of the bypass for 7-10 years now.

LONGNECKER said any setbacks or screening will have to be within the UZC.

AUSTIN said he would be happy to meet with the neighbors any time regarding the KDOT matter.

RICHARDSON asked for clarification that the building was approximately 120-150 feet from the property. He said the 40 feet is from the paved area to the building itself.

DENNIS asked the applicant to confirm that fertilizer would not be going into the ground in the area and would not contaminate the neighbor's crops.

AUSTIN said that was correct and added that they have met with County staff concerning County code on that issue. He mentioned language on how the hazardous waste would be dealt with and that any wash water has to be treated.

LONGNECKER asked what the final determination on site acreage was. He said he's heard the west half of the property which is approximately 40 acres and the applicant requested 10 acres.

RICHARDSON said a net of 10 acres after acreage for the highway is taken out to give the applicant some flexibility for expansion.

FOSTER asked about screening requirements.

LONGNECKER said since this is a non-residential activity, it will have to meet the UZC. He said there will have to be some type of landscape buffer, which he believes is preferable to putting up a fence. He said staff will request a revised site plan with more dimensional control and landscaping.

MOTION: To approve subject to staff recommendation with a net of 10 acres.

TODD moved, **DOOL** seconded the motion, and it carried (9-0).

WARREN commented that they don't know what KDOT is going to do or when they are going to do it.

LONGNECKER stated that the plat will confirm the KDOT reserve which will be reflected on the site plan.

AUSTIN said it sounds reasonable but he felt designating the west half of the property would be good.

TODD said they can determine where they want the lines that is why he worded the motion like he did.

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6. **Case No.: DER2015-00009** - Proposed amendments to Section IV-E.7. of the Wichita-Sedgwick County Unified Zoning Code regarding minimum lot size and separation requirements for rural home occupations.

Background: On September 6, 2012, the MAPC recommended amendments to the rural home occupation regulations. The recommendations included reducing the minimum lot size for a rural home occupation to two acres and reducing the required separation distance between a rural home occupation and a residence to 40 feet.

On November 21, 2012, the County Commission returned the recommended amendments to the MAPC for reconsideration of the minimum lot size and separation requirements. On March 21, 2013, the MAPC reconsidered the amendments to the rural home occupation regulations and recommended a minimum lot size of five acres and a separation requirement of 120 feet. On April 17, 2013, the County Commission approved the MAPC recommended amendments to the rural home occupation regulations.

During the review process, some County Commissioners expressed support for the minimum lot size and separation requirements originally recommended by MAPC. At a recent County Commission staff meeting, Commissioners discussed the potential to promote economic development in rural areas by making it easier to establish a rural home occupation. To that end, Chairman Ranzau asked staff to place an item on the MAPC agenda to consider amendments that would reduce the minimum lot size and separation requirements for rural home occupations.

The proposed amendments (attached) would reduce the minimum lot size for a rural home occupation from five acres to two acres by right and from two acres to 20,000 square feet with a Conditional Use. The proposed amendments also would reduce the required separation distance between a rural home occupation and a residence from 120 to 75 feet.

On November 19, 2015, the MAPC voted (12-0) to set a public hearing for December 17, 2015, to consider the proposed amendments. The MAPC also directed the Advanced Plans Committee to consider the proposed amendments and make a recommendation.

On December 3, 2015, the Advanced Plans Committee considered the proposed amendments and voted (5-0) to recommend approval. The summary of the Advanced Plans Committee meeting is attached.

Recommended Action: Based on the information available prior to the public hearing, staff recommends approval of the proposed amendments to Section IV-E.7. of the Wichita-Sedgwick County Unified Zoning Code regarding minimum lot size and separation requirements for rural home occupations. This recommendation is based on the following findings.

1. The zoning, uses, and character of the neighborhood: The “RR” Rural Residential and “SF-20” Single-Family Residential are the zoning districts in which rural home occupations are permitted. The purpose of these districts is to support large-lot residential development and complementary land uses. Rural home occupations are a complementary land use in rural areas.
2. The suitability of the subject property for the uses to which it has been restricted: Large lots in unincorporated areas are suitable for the types of uses permitted as rural home occupations.
3. The extent to which removal of the restrictions will detrimentally affect nearby property: While the proposed amendments reduce the minimum lot size and separation requirements for rural home occupations, additional development standards for rural home occupations such as screening requirements and limitations on building size and the number of employees should limit the detrimental affect of rural home occupations on nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita and Small Cities 2030 Urban Growth Areas map indicates that rural areas are appropriate for rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

Attachments: Proposed Amendments to Section IV-E.7.
Advanced Plans Committee Summary of Meeting, December 3, 2015

SCOTT KNEBEL, Planning Staff presented the Staff Report.

MILLER STEVENS asked if there were any changes in screening requirements.

KNEBEL responded no, just separation distance.

MILLER STEVENS asked if there was any limitation on how many of these you can have in a consecutive area.

KNEBEL replied that there were no limitations on the number of rural home occupations in any geographic area.

FOSTER asked about analysis on how this proposal relates to sewage facilities and water requirements. He asked what conditions exist in the infrastructure to allow this.

KNEBEL said the base zonings for RR and SF-20 have restrictions on minimum lot size based on the availability of water and sewer and those still apply. As an example, he said if an applicant had a lagoon, they would still be required to have a 4.5 acre lot.

FOSTER asked about minimum side yard setbacks for RR.

KNEBEL said 20 feet on the side and 25 feet on the rear.

FOSTER referred to Item B. and asked if a rural home occupation would it be 55 feet from the property line to the residence or 75 feet as the crow flies.

KNEBEL said 55 feet from the subject property line would be required. He added it was a building to building separation.

There were no public comments.

MOTION: To approve subject to staff recommendation.

RICHARDSON moved, **RAMSEY** seconded the motion, and it carried (8-1).

FOSTER – No.

FOSTER said he believes this proposal is going more towards an urban condition and that is not what Rural Residential is about. He said he felt he should mention that.

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7. **Case No.: DER2015-00011** - The City of Derby seeks Unilateral Annexation of Tracts located in the Huckleberry Addition adjacent to the City of Derby – Resolution No. 30-2015.

Background: On November 10, 2015, the City of Derby passed Resolution No. 30-2015 authorizing a public hearing on January 12, 2016 for the purposes of considering the unilateral annexation of properties in the Huckleberry Addition located west of K-15 Highway, eligible for annexation under KSA 12-520(a) and situated immediately adjacent to the City of Derby.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Derby has submitted to the MAPD, a copy of the service plan that describes in a very thorough and comprehensive way the extension of services to the annexation area.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that all tracts proposed for unilateral annexation fall within the City of Derby 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. The annexation properties also fall within the City of Derby 2035 Urban Growth Area as designated in the Community Investments Plan 2015-2035, adopted by the MAPC on November 19, 2015. All annexation properties fall within Derby's future urban growth area as identified in the City of Derby Comprehensive Plan Growth Areas Map.

Recommended Action: That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 30-2015 of the City of Derby to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Attachments: Attachment No. 1 - Resolution No. 30-2015 and Annexation Area
Attachment No. 2 - 2030 Urban Growth Areas Map, May 2005
Attachment No. 3 - 2035 Urban Growth Areas Map, November 19, 2015

SCOTT KNEBEL, Planning Staff presented the Staff Report.

WARREN recused himself from the item saying he was on the Derby City Council and it may appear he has a conflict of interest. He added that he has also had ex parte communication on the item.

WARREN (Out a@5:00 p.m.)

MILLER STEVENS asked if Derby provided utilities.

KNEBEL said only to a limited number of lots in the southeast corner. He said it is a rural water district and they are proposing that stay the same.

RICHARDSON asked if this was the normal process when a City wants to annex an area.

KNEBEL said this is the typical procedure by which cities expand their boundaries.

RICHARDSON asked if the affected residents are given notice since no one was present at the meeting.

KNEBEL said they are not notified of this meeting but they are notified when it goes to the Derby City Council.

RICHARDSON said so if citizens are not in agreement with the annexation, they would make their case to the City of Derby not the Planning Commission.

KNEBEL responded that is correct. He mentioned that he has done several unilateral annexations and he has never met anyone who is in favor of one.

DAILEY clarified that the section being annexed is in the City's growth area?

KNEBEL referred to the map and said it is located in the growth area.

There were no public comments.

MOTION: That the unilateral annexation is consistent with the Comprehensive Plan.

RAMSEY moved, **DOOL** seconded the motion, and it carried (8-0).

NON-PUBLIC HEARING ITEMS

DIRECTOR MILLER announced that Scott Knebel will be assisting the Current Plans Division as the Acting Current Plans Manager so he invited Commissioners to contact him with any zoning questions.

DIRECTOR MILLER introduced Justin Waggoner, Assistant County Counselor who he said would be taking over for Bob Parnacott. He also introduced Jon Von Achen, Assistant County Counselor.

The Metropolitan Area Planning Commission adjourned at 5:05 p.m.

State of Kansas)
Sedgwick County) ss

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2015.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)